HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2227 OF 2006.

Hasmukh Thakkar. ..Petitioner.
Versus.
The State of Maharashtra.
& Anr. ..Respondents.

Mr. Manish Bohra for the petitioner.
Mr. L. R. Castelino i/b Sunil Kak for respondent no.2
Mrs. U.V.Kejariwal, APP for the State.

CORAM: S.B.MHASE &
S.R.SATHE JJ

DATE: DECEMBER 04, 2006.

P.C.

1. We perused the order dated 9th November 2006 passed by the learned Single Judge of this Court, (Coram: R.P.Desai,J.). Before the learned Single Judge, learned counsel for the petitioner has made a statement that in view of sub-rule 3 of Rule-18 of Chapter-17 of the Bombay High Court, Appellate Side Rules, 1960 the present petition will lie before the Division Bench of this Court. However, it is to be noted that conspicuously the learned counsel did not make a reference which of the Division Bench, namely, whether Criminal or Civil Division Bench, it will lie, and thus the matter was taken from the Single Judge with protection. Thereafter the matter was placed before the Criminal Division Bench consisting of the Chief Justice and Justice V.M.Kanade on 15th November 2006 when the order

was passed to be placed before the appropriate bench as per the roaster. At that time also it was not submitted before the Division Bench of the Chief Justice and Justice V.M.Kanade whether the matter lies before the Division Bench on civil side or on criminal side. For the first time today, the learned counsel for the petitioner is making a statement that the matter lies before the Division Bench on Civil Side. From the conduct of the petitioner, we have an impression that petitioner is interested in forum hunting or forum shopping. However, Office was also under obligation to make a proper scrutiny of the matter in view of the order passed by learned Single Judge (Justice R.P.Desai) and to place the matter before the appropriate Bench. Without going into that controversy, we direct the Office to place the matter before the Division Bench taking Civil matters. We make it clear that we have not adjudicated the point whether the matter lies before the Division Bench on Civil Side or on Criminal Side. We have only noted the submission of the learned counsel for the petitioner and place it before the Division Bench of Civil Side. It will be open for the Division Bench of Civil Side to adjudicate initially and thereafter to fix up the matter. Remove from the board.

(S.R.SATHE,J.) **(S.B.MHASE, J.)**

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